



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
STAFFORD COUNTY BOARD OF SUPERVISORS
FOR
SANITARY SEWER COLLECTION SYSTEMS
ASSOCIATED WITH
THE
AQUIA WASTEWATER TREATMENT FACILITY
VPDES PERMIT NO. VA0060968
AND
THE
LITTLE FALLS RUN WASTEWATER TREATMENT PLANT
VPDES PERMIT NO. VA0076392**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and the Stafford County Board of Supervisors, regarding the Sanitary Sewer Collection Systems associated with the Little Falls Run Wastewater Treatment Plant and the Aquia Wastewater Treatment Facility for the purpose of resolving certain violations of State Water Control Law and the applicable permits and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and

the public an accurate and comprehensive assessment of the quality of State surface waters.

2. "Aquia Facility" means the Aquia Wastewater Treatment Facility located at 75 Coal Landing Road, Stafford, Stafford County, Virginia, which treats and discharges treated sewage from domestic, commercial, and light industrial sources.
3. "Aquia Permit" means VPDES Permit No. VA0060968, which was issued under the State Water Control Law and the Regulation to the Stafford County Board of Supervisors on November 20, 2013, and which expires on November 19, 2018.
4. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
5. "Collection System" means the sanitary sewer collection system owned by Stafford County.
6. "County" means the Stafford County Board of Supervisors, the governing body of a political subdivision of the Commonwealth of Virginia. The Stafford County Board of Supervisors is a "person" within the meaning of Va. Code § 62.1-44.3.
7. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
8. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
9. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.
10. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
11. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
12. "IR" means Incident Report.

13. "Little Falls Facility" means the Little Falls Run Wastewater Treatment Plant located at 100 Michael Scott Lane, Fredericksburg, Stafford County, Virginia, which treats and discharges treated sewage from domestic, commercial, and light industrial sources.
14. "Little Falls Permit" means VPDES Permit No. VA0076392, which was issued under the State Water Control Law and the Regulation to the Stafford County Board of Supervisors on October 1, 2015, and which expires on September 30, 2020.
15. "MGD" means million gallons per day.
16. "NOV" "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
17. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
18. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
19. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
20. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
21. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
22. "SSO" means Sanitary Sewer Overflow, a discharge from a collection system.
23. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.

24. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
25. "Va. Code" means the Code of Virginia (1950), as amended.
26. "VAC" means the Virginia Administrative Code.
27. "VPDES" means Virginia Pollutant Discharge Elimination System.
28. "Warning Letter" or "WL" means a type of Notice of Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Stafford County owns and operates the Little Falls Facility located in Stafford County, Virginia. The Little Falls Permit authorizes the County to discharge treated sewage from domestic, commercial, and light industrial sources solely from the Little Falls Facility, to the Rappahannock River, in strict compliance with the terms and conditions of the Permit. The design flow of the Facility is 8.0 MGD.
2. Claiborne Run is located within the Rappahannock River Basin. The segment of Claiborne Run which has received discharges from the collection system is listed in DEQ's 2014 305(b)/303(d) Integrated Report as not supporting fish consumption, due to PCBs. A bacteria TMDL was completed and approved by EPA on May 5, 2008.
3. On July 5, 2016, the County reported the discharge of approximately 36,000 gallons of raw sewage into Claiborne Run due to hydraulic overloading of the system collection system infrastructure. This incident was assigned IR#2017-N-0059.
4. On September 29, 2016, the County reported the discharge of approximately 7,500 gallons of raw sewage into Claiborne Run due to hydraulic overloading of the system collection system infrastructure. This incident was assigned IR#2017-N-0937.
5. On October 3, 2016, the County reported the discharge of approximately 909,750 gallons of raw sewage into Claiborne Run due to a collection system infrastructure failure. This incident was assigned IR#2017-N-0986.
6. The Little Falls Permit at Part II.F states: "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life,

or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.”

5. As a result of the reported July 5, 2016 SSO, described in section C(3) above, DEQ issued a NOV, No. W2016-09-N-0003, to the County, dated September 28, 2016.
6. As a result of the reported September 29, 2016 SSO, described in section C(4) above, DEQ issued a NOV, No. W2016-11-N-0009, to the County, dated November 16, 2016.
7. As a result of the reported October 3, 2016 SSO, described in section C(5) above, DEQ issued a NOV, No. W2016-12-N-0007, to the County, dated December 20, 2016.
8. On October 12, 2016, the County responded to the September 28, 2016, NOV. The response letter stated that this SSO was due to hydraulic overloading of the system collection system infrastructure, caused by excessive flows, following a significant rainfall, exceeding the designed pumping capacity of the Claiborne Run Sewage Pumping Station.
9. In addition the County stated in the October 12, 2016, response letter that a Claiborne Run Sewage Pumping Station upgrade project had been awarded for design this fiscal year, with construction in Fiscal Year 2018.
10. On December 7, 2016, the County responded to the November 16, 2016, NOV. The response letter stated that in addition to the work detailed in the October 12, 2016 letter, the County was bidding a project to replace a large section of the sewage interceptor line just above the pump station to help to protect against similar events in the future. In addition the County was investigating the possibility of changing out the pump impellers at the Claiborne Run Sewage Pumping Station to expand the maximum volume of water which can be moved during peak flow operating conditions.
11. The County owns and operates the Aquia Facility located in Stafford County, Virginia. The Aquia Permit authorizes the County to discharge treated sewage from domestic, commercial, and light industrial sources only from the Aquia Facility, to an unnamed tributary to Austin Run, in strict compliance with the terms and conditions of the Permit. The design flow of the Facility is 10.0 MGD.
12. Austin Run is located within the Potomac River Basin. The segment of Austin Run which received the discharge from the collection system is listed in DEQ's 2014 305(b)/303(d) Integrated Report for impairments to fish consumption, due to PCBs under the Tidal Potomac River PCB TMDL and for bacteria impairment under the Bacteria TMDL for Potomac River Tributaries for Stafford County.
13. On October 4, 2016, the County reported the discharge of approximately 90,000 gallons of raw sewage into Austin Run due to collection system infrastructure failure between MH 40-0116 and 40-0117. This incident was assigned IR#2017-N-1003.

14. The Aquia Permit at Part II.F states: "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses."
15. As a result of the reported October 4, 2016 SSO, described in section C(13) above, DEQ issued a NOV, No. W2016-12-N-0006, to the County, dated December 20, 2016.
16. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
17. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
18. Va. Code § 62.1-44.5 states that a VPDES permit is a "certificate" under the statute.
19. Claiborne Run is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.
20. Austin Run is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.
21. Based on the SSO reports, and submitted documents, the Board concludes that the County has violated the Little Falls Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging untreated sewage and domestic wastes from the collection system, as described in paragraphs C(3) and C(4), and C(5) above.
22. Based on the SSO reports, and submitted documents, the Board concludes that the County has violated the Aquia Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging untreated sewage and domestic wastes from the collection system, as described in paragraph C(13) above.
23. In order for the County to return to compliance, DEQ staff and representatives of the County have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders the County, and the County agrees to:

1. Perform the actions described in Appendices A and B of this Order; and
2. Pay a civil charge \$27,664.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.
 - a. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The County shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, the County shall be liable for attorneys' fees of 30% of the amount outstanding.

- b. The County shall satisfy \$24,897.60 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix B of this Order.
- c. The net project costs of the SEP to the County shall not be less than the amount set forth in Paragraph D.2.b. If it is, the County shall pay the remaining amount in accordance with Paragraph D.2.a of this Order, unless otherwise agreed to by the Department. "Net project cost" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.
- d. By signing this Order the County certifies that it has not commenced performance of the SEP.

- e. The County acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by the County to a third party, shall not relieve the County of its responsibility to complete the SEP as described in this Order.
- f. In the event it publicizes the SEP or the SEP results, the County shall state in a prominent manner that the project is part of a settlement of an enforcement action.
- g. The Department has the sole discretion to:
 - i. Authorize any alternate, equivalent SEP proposed by the Facility; and
 - ii. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
- h. Should the Department determine that the County has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify the County in writing. Within 30 days of being notified, the County shall pay the amount specified in Paragraph D.2.b, above, as provided in Paragraph D.2.a, above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with consent of the County for good cause shown by the County, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The County declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial

review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by the County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The County shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The County shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the County intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the County. Nevertheless, the County agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after the County has completed all of the requirements of the Order;
- b. The County petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the County.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by the County and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of the County certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the County.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, the County agrees to the issuance of this Order.

And it is so ORDERED this 26th day of January, 2018.



Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

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Consent Order

Stafford County Board of Supervisors / Sanitary Collection Systems associated with the Little Falls Run WWTP and Aquia WWTF

VPDES Nos.: VA0076392 & VA0060968

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Stafford County Board of Supervisors voluntarily agrees to the issuance of this Order.

Date: 9/22/17 By: Thomas C. Foley, County Administrator
(Person) (Title)

Stafford County Board of Supervisors

Commonwealth of Virginia

City/County of Stafford

The foregoing document was signed and acknowledged before me this 22 day of

September, 2017, by Thomas C. Foley who is

of the Stafford County Board of Supervisors, on behalf of the County.

Marcia C. Hollenberger

Notary Public

302480

Registration No.

My commission expires: 8.31.21

Notary seal:



Consent Order

Stafford County Board of Supervisors / Sanitary Collection Systems associated with the Little Falls Run WWTP and Aquia WWTF

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APPENDIX A SCHEDULE OF COMPLIANCE

The County shall:

A. Corrective Action:

No later than 30 days from the effective date of this Order, the County shall submit a plan and schedule for the Claiborne Run Force Main Upgrade Project to DEQ for review and approval. The DEQ approved schedule shall become an enforceable part of this Order.

B. Submissions:

Unless otherwise specified in this Order, the Town shall submit all requirements of Appendix A of this Order to:

Enforcement
Virginia Department of Environmental Quality
Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193

APPENDIX B
STAFFORD COUNTY BOARD OF SUPERVISORS
SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

In accordance with Va. Code § 10.1-1186.2, the County shall perform the Supplemental Environmental Project (SEP) identified below in the manner specified in this Appendix. As used in this Order and Appendix, SEP means an environmentally beneficial project undertaken as partial settlement of a civil enforcement action and not otherwise required by law.

1. The SEP to be performed by the County providing \$24,897.60 to Crow's Nest Natural Area Preserve maintained by Virginia Department of Conservation and Recreation (DCR) for the specific project of improvements to approximately 600 foot section of road down to Boykin's Landing. The improvements will restore and stabilize the specific section of the road and will control erosion and help to keep sediment out of Accokeek Creek, Potomac Creek, the Potomac River and the Chesapeake Bay.
2. The SEP shall be deemed satisfied upon the completion of the road stabilization project.
3. No later than 30 days from the effective date of the Order, the County shall submit proof of the payment of the \$24,897.60 to DCR for the Crow's Nest Natural Area Preserve.
4. The County shall submit a written final report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified either by a Certified Public Accountant or by a responsible corporate officer or owner. The County shall submit the final report and certification to the Department within 30 days from the completion date of the SEP funded road stabilization project.
5. If the SEP has not or cannot be completed as described in the Order, the County shall notify DEQ in writing no later than 30 days from the execution of this Order. Such notification shall include:
 - a. an alternate SEP proposal, or
 - b. payment of the amount specified in Paragraph D.2.b as described in Paragraph D.2.a.
6. The County hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.
7. The County shall submit to the Department written verification of the final overall and net project cost of the SEP in the form of invoices and proof of payment within 30 days of the project completion date. For the purposes of this submittal, net project costs can be

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Stafford County Board of Supervisors / Sanitary Collection Systems associated with the Little Falls Run WWTP and Aquia WWTF

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either the actual, final net project costs or the projected net project costs if such projected net project costs statement is accompanied by a CPA certification or certification from the County's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.

8. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to the contact identified in Appendix A of this Order.